

**REGULAR MEETING OF THE
OKLAHOMA WORKERS’ COMPENSATION COMMISSION**

Thursday, August 19, 2021
1:30 p.m.
Commission Chambers, 2nd Floor
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

AGENDA

CALL TO ORDER **Chairman Russell**

ROLL CALL **Chairman Russell**

Open Meeting Act Statement

THE FOLLOWING MATTERS ARE PRESENTED FOR CONSIDERATION AND VOTE TO APPROVE, DISAPPROVE, OR TAKE ANY OTHER ACTION CONSISTENT WITH THE COMMISSION’S AUTHORITY.

A. Business Meeting Agenda Items

1. Discussion and Possible Action on Minutes

The drafted minutes of the August 12, 2021, Special Meeting of the Commission will be considered for approval.

2. Discussion and Possible Action of Consent Agenda for Travel Vouchers Currently Outstanding

Title 85A O.S. § 23 states, [a]ny Commissioner or employee of the Commission shall be entitled to receive his or her necessary traveling expenses as provided in the State Travel Reimbursement Act. The expenses shall be certified by the person who incurred them and shall be allowed and paid on presentation of vouchers approved by the Commission.” In accordance with this section, the Commission will consider a vote to approve the currently outstanding vouchers.

All travel vouchers listed within this Consent Agenda have been made available to each Commissioner prior to today’s meeting, are considered routine, and will be enacted by one motion of the Commission. If separate discussion is desired, that item may be removed from the Consent Agenda and voted upon separately.

Possible Action:

Possible action may include, but is not limited to: taking no action; approving some, all, or none of the vouchers listed in this Consent Agenda; or continuing the matter.

3. **Request to Approve the Distribution of Surplus Monies to Members of the Oklahoma Operators Self-Insurers Fund (#75292)**

Rule 810:25-11-10 of the Workers' Compensation Commission provides that any distributions of surplus funds back to the members of a group self-insurance association shall be subject to the prior approval of the Commission.

The Oklahoma Operators Self-Insurers Fund ("the Group") has requested to make a partial distribution in the amount of \$450,000, which will be payable from Fund Years 2014 (\$250,000), 2015 (\$100,000), 2016 (\$50,000), and 2017 (\$50,000). All claims for these fund years are closed.

The Group had a financial surplus of more than \$1,329,980 for all years combined, as indicated in the audited financial statement for the period ending December 31, 2020.

The Group has submitted the audited financial statement for the year ending December 31, 2020 in support of their request.

Possible Action:

Possible action may include, but is not limited to; taking no action, continuing the matter, approving some, all, or none of the distribution of the surplus monies to the members of the Oklahoma Operators Self-Insurers Fund.

4. **Request to Approve the Distribution of Surplus Monies to Members of the Oklahoma Automobile Dealers Self-insurance Association (#75088)**

Rule 810:25-11-10 of the Workers' Compensation Commission provides that any distributions of surplus funds back to the members of a group self-insurance association shall be subject to the prior approval of the Commission.

The Oklahoma Automobile Dealers Self Insured Association ("the Group") has requested to make a partial distribution of \$4,400,000, which will be payable in the following amounts from the indicated fiscal year: \$1,000,000 (FY 20-21); \$1,200,000 (FY 19-20); \$1,000,000 (FY 18-19); \$600,000 (FY 17-18); \$200,000 (FY 16-17); and \$400,000 (FY 15-16); The partial distribution will be made to all of the current active or otherwise qualified members which participated in those fiscal years.

The Group appears to be a healthy, well-managed group and has been profitable every year of existence. The Group's current financial surplus is \$13,105,133 for all years combined, as indicated in the financial statement for the period ending on March 31, 2021.

The Group has submitted the actuarial review of reserves and the audited financial statement for the year ending March 31, 2021 in support of their request. The Group maintains reserves as recommended in the Group's Actuarial Reserve Analysis as of 3/31/21 and will continue to have a surplus in each of these four fiscal years if this distribution is approved.

Possible Action:

Possible action may include, but is not limited to; taking no action, continuing the matter, approving some, all, or none of the distribution of the surplus monies to the members of the Oklahoma Automobile Dealers Self-insurance Association.

5. **Request to Reduce Security Deposit for Navistar, Inc., Own Risk Permit #19208**

Navistar, Inc. ("the Company"), own risk permit #19208, was a self-insured employer in the Own Risk program until August 1, 2019. They have petitioned the Commission to reduce the Company's security deposit on file. The Commission currently holds a \$4,900,000 Letter of Credit, issued by Bank of America as security deposit. They are requesting a reduction of their security deposit to \$2,000,000. The company currently has open claims totaling \$1,300,000.

The Company has complied with Commission Rule 810:25-9-19.

Possible Action:

Possible action may include, but not limited to: continuing the matter; reducing the security deposit of Navistar, Inc.; or not reducing the security deposit of Navistar, Inc., an own risk employer.

6. **Discussion and Possible Action of Remodel Construction Contract for the Denver N. Davison Building**

The Workers' Compensation Commission previously approved renovation design plans for the partial renovation of the first and second floor offices in the Denver N. Davison Building in Oklahoma City. The Commission approved the bid of Downey Contracting, L.L.C. as the vendor for the construction project in the amount of \$754,000. The Commission will discuss and consider approval of the construction contract.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; approving contract in the amount of \$754,000; not approving contract in the amount of \$754,000; or other action consistent with Commission authority.

7. **Discussion and Consideration of Renewal of a 20i Contract between the Commission and the Office of the Oklahoma Attorney General for Fiscal Year 2022**

The Commission will discuss and consider proposed contracts engaging the legal services of the Office of the Oklahoma Attorney General for the Compliance Division for FY22. The costs of the proposed contracts are \$26,375.04 for 25% FTE equivalent legal services or \$52,749.96 for 50% FTE equivalent legal services.

Possible Action:

Possible action may include: taking no action, continuing the matter, approving or not approving a contract with the Office of the Oklahoma Attorney General in the amount of \$26,375.04 or \$52,749.96, and authorizing the Chair to sign on behalf of the Commission.

8. **Discussion and Possible Action Regarding Objectstream Phase II Agreement-Addendum 4**

Addendum 4 memorializes necessary adjustments to the CaseOK Phase II project scope, timeline, and payments as a result of an increased need for functionality and the complexity of the software's creation, data integration, and implementation.

Possible Action:

Possible action may include, but is not limited to: taking no action; continuing the matter; approving the Addendum as presented and directing the Chairman to sign on behalf of the Commission; or taking other appropriate action within the Commission's authority.

9. **Discussion and Possible Action on Lease Agreement for New WCC Tulsa Office Space**

House Bill 4139 (2020) directed OMES to relocate state agencies currently housed within the Kerr Edmondson Building in Tulsa, Oklahoma, including the Workers' Compensation Commission, to a property owned by the Commissioners of the Land Office ("CLO"). CLO and OMES have identified 201 W. 5th Street in Tulsa, Oklahoma as a relocation site for the WCC's Tulsa Office. The Commission will discuss and consider action on a proposed Lease Agreement with CLO and OMES to occupy this office space.

Possible Action: Possible action may include, but is not limited to: taking no action; continuing the matter; disapproving the lease agreement; approving the lease agreement and authorizing the Chairman to sign on behalf of the Commission; or approving the lease agreement with modifications as discussed, and authorizing the Chairman to sign the agreement on behalf of the Commission once modifications are made.

10. **Discussion and Possible Action Regarding the Draft Oklahoma Option Insured Guaranty Fund Monies Letter**

The Oklahoma Option Insured Guaranty Fund, 85A O.S.2014, §§ 201-213 (now repealed), was found unconstitutional in 2016, and assessments from insurers and carriers are no longer collected or paid into the fund. The Commission will discuss a draft letter seeking legislative assistance to address monies remaining in this fund.

Possible Action:

Possible action may include, but not limited to: taking no action; continuing the matter; approving the draft letter to be sent; approving the letter to be sent as modified in the meeting; or any other action within the authority of the Commission

11. **New Business**

“[A]ny matter not known about or which could not have been reasonably foreseen prior to the time of the posting.” 25 O.S. § 311.

B. Commission Consideration of Adoption of Final Order in the Following Cases:

1. **Valerie Wilson v. MITF, File #CM2017-00270K**

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Alex Forbes appeared for the Claimant and Jennifer Finley appeared for the Respondent.

This case came on for Oral Argument on January 15, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

2. **Tanya Reynolds v. Harvest Hills Baptist Church & Christian School, Church Mutual Ins. Co., S.I., File #CM2019-07146L**

Respondent filed an appeal from the order issued by Administrative Law Judge McMillin. Louis P. Falsetti appeared Claimant and Jeffrey W. Dasovich appeared for the Respondent.

This case came on for Oral Argument on March 26, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

3. Carlton Thomas v. Cameron Logistics LLC and United Wisconsin Insurance Co., File #CM2019-05408R

Respondent filed an appeal from the order issued by Administrative Law Judge Blodgett. Timothy Kent appeared for the Claimant and Blake Farris appeared for the Respondent.

This case came on for Oral Argument on April 16, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

4. Jose Guevara v. Seaboard Foods LLC and Indemnity Insurance Co. of North America, File #CM2020-00416R

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Ryan Polchinski appeared for the Claimant and Jay Chaney appeared for the Respondent.

This case came on for Oral Argument on April 16, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

5. Keely Norfolk v. La Quinta Inn & Suites Truck Insurance Exchange and Prime Lodging LLC Truck Insurance Exchange, File #CM2019-02204F

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Brandon J. Burton is the attorney of record for the Claimant and Lacy N. Vassar is the attorney of record for the Respondent.

This case came on for Oral Argument on May 21, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

6. Sandra Bennett v. Multiple Injury Trust Fund, File #CM2017-04820XMIF

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Susan H. Jones appeared for the Claimant and Travis Colt appeared for the Respondent.

This case came on for Oral Argument on May 21, 2021. After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to take preliminary action to affirm the Administrative Law Judge’s Order and instructed Appellate Counsel or other staff member to draft a proposed order to be considered at a future meeting.

Possible Action:

Possible action may include, but is not limited to: taking no action, adopting an order as proposed or as modified at the hearing, or continuing the matter.

7. Danny Roberson v. Multiple Injury Trust Fund, File #CM2017-04700JMIF

Respondent filed an appeal from the order issued by Administrative Law Judge Inhofe. Cathy G. Enterline appeared for the Claimant and Travis Colt appeared for the Respondent.

This case came on for Oral Argument on July 16, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

8. J. Asuncion Abonza v. Exterran Holdings Inc. and American Zurich Insurance Co., File #CM2015-08100F/CM2016-03867H

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Bret A. Unterschuetz appeared for the Claimant. Michael Fagan and Taylor K. Weder appeared for the Respondent.

This case came on for Oral Argument on July 16, 2021. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

ADJOURNMENT.....Chairman Russell